



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

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RECORDKEEPING REQUIREMENTS PERTAINING TO "SALESMAN'S SAMPLES" OF DISTILLED SPIRITS

Proprietors of Distilled Spirits Plants; Importers, Wholesale
Liquor Dealers, and Others Concerned:

Purpose. This circular is to inform industry members that ATF Ruling 75-23 was published in the Alcohol, Tobacco and Firearms Bulletin for August 1975. The ruling prescribes guidelines for the receipt and disposition of distilled spirits which are used as "salesman's samples." The ruling, in pertinent part, reads as follows:

The Bureau of Alcohol, Tobacco and Firearms has been asked to state its position with respect to recordkeeping requirements for samples of distilled spirits issued to salesmen.

The Bureau has found several instances where the recordkeeping and reporting practices of certain suppliers, wholesalers, retail liquor dealers, and salesmen did not conform to the requirements of regulations pertaining to salesman samples. In some instances, liquors accounted for as samples were given to retail dealers as "free goods" (sometimes called bonuses) with quantity purchases of distilled spirits without having been invoiced to the retailer or recorded by the retailer as having been received.

Section 6.29 of Title 27 of the Code of Federal Regulations states, in part, that no more than one pint of any brand of distilled spirits may be furnished or given as a sample to a retailer who has not previously purchased that particular product.

In Revenue Ruling 58-429, C.B. 1958-2, 986 (Internal Revenue), the Bureau prescribed an abbreviated records requirement for samples distributed under 27 CFR 6.29; (however), neither the regulations

nor Revenue Ruling 58-429 have placed a limitation on the size of the bottle from which bona fide samples may be distributed. The regulations limit only the quantity of the sample and not the bottle size.

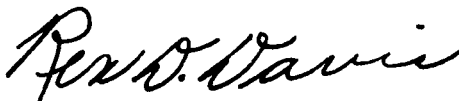
Held, a wholesaler is considered in substantial compliance with the requirements of the regulations if he reports distilled spirits distributed by him or his salesmen in bottles of one pint capacity or less to retailers, under the provisions of 27 CFR 6.29, as "salesman's samples," showing the name of the salesman who received them, without showing the ultimate disposition of such spirits by the salesman, provided, of course, that the spirits so reported are in fact used in good faith as samples by the salesman within the limits of 27 CFR 6.29. Similarly, where a supplier's sales representative procures small quantities of distilled spirits, not to exceed one pint in size, from his principal's customers or other wholesale or retail dealers for use, within the limits of 27 CFR 6.29, as bona fide samples in his contacts with the trade, neither the principal nor the sales representative is required to maintain records of the receipt and disposition or to render reports of such distilled spirits so used. However, the wholesaler from whom the spirits are procured is not relieved from recording and reporting his disposition of the spirits to the sales representative or his principal, as the case may be.

Held further, samples of distilled spirits may be dispensed to retailers or to customers on the retailer's premises from a bottle larger than a pint as long as the limitations prescribed in 27 CFR 6.29 are followed and as long as the sample is a product not previously purchased by the retailer. However, where a wholesaler's salesman or a supplier's representative dispenses samples from such a bottle, the abbreviated records procedure set forth above for bottles of one pint capacity or less is not considered adequate. Accordingly, where a wholesaler's salesman or a supplier's representative dispenses samples of distilled spirits to retailers from bottles larger than one pint, he must keep a record of the quantity dispensed to the retailer (including any quantity dispensed to customers on the premises), name and address of the retailer,

date of disposition, brand name, kind of spirits, and size of bottle from which the spirits were dispensed. The salesman's record or the record of the supplier's representative must be retained by the wholesaler or the supplier, as the case may be, as a supporting document under the requirements of 27 CFR 194.242.

Rev. Rul. 58-429, C.B. 1958-2, 986 (Internal Revenue) is superseded.

Inquiries. Inquiries concerning ATF Ruling 75-23 or this circular should be addressed to the Assistant Director (Regulatory Enforcement) Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.



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Director